

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 7532

Investigation into the rates charged by the Town of)
Readsboro Electric Light Department in re: possible)
deviation from approved rates and accuracy of the)
calculation of refunds previously issued)
and)

Docket No. 7564

Investigation into Town of Readsboro Electric Light)
Department's tariff filing requesting a 24.46% rate)
increase, to take effect October 1, 2009)

Order entered: 6/4/2010

I. INTRODUCTION

These Dockets involve (1) an investigation into whether the Town of Readsboro Electric Light Department ("Readsboro Electric") was billing customers at unauthorized rates and whether it accurately issued previous bill credits (Docket 7532), and (2) an investigation into a 24.46% (or \$73,379) rate increase proposed by Readsboro Electric (Docket 7564). In this Proposal for Decision, I recommend that the Public Service Board ("Board") approve, in its entirety, the Stipulation ("Stipulation") between Readsboro Electric and the Vermont Department of Public Service ("Department") that was filed on March 15, 2010.¹ The Stipulation, if approved, would resolve all issues in Dockets 7532 and 7564. Under the Stipulation, Readsboro Electric would be entitled to rates that will produce a 30.76% (or \$92,262) increase in annual retail electric revenues.

Under the Stipulation, the parties agree that Readsboro Electric should pay a \$2,000 penalty for billing customers in a manner that was not consistent with its approved tariffs and with Board Orders. I recommend that the Board impose the proposed \$2,000 penalty on Readsboro Electric because its conduct is a violation of 30 V.S.A. § 229, which prohibits public

1. I hereby admit the Stipulation into evidence as Exh. Joint-1.

service companies from deviating, directly or indirectly, from the rates for any service rendered by it "as specified in its schedules of charges in effect at the time such service was rendered."²

II. PROCEDURAL HISTORY

On June 30, 2009, the Board opened Docket 7532 to investigate an allegation that Readsboro Electric was billing customers at rates not authorized by its approved tariffs³ and to further address whether Readsboro Electric accurately issued bill credits to its customers as a result of the Board's June 24, 2008, Order in Docket 7322.⁴ The Board appointed me to serve as the Hearing Officer in Docket 7532.

On August 14, 2009, Readsboro Electric filed with the Board proposed tariff revisions requesting an overall increase in its rates in the amount of 24.46%, to take effect October 1, 2009 (Tariff Filing No. 8099) on a service-rendered basis.

On September 17, 2009, the Department informed the Board that it had reviewed Readsboro Electric's proposed tariff filing and recommended that the Board open an investigation into the rate increase request. In its letter, the Department identified several areas of concern, including: (1) missing audited financial statements for 2007 and 2008;⁵ (2) noncompliance with Generally Accepted Accounting Principles ("GAAP"); (3) lack of information regarding the improper rates and inaccurate refunds under investigation in Docket 7532; (4) need for capital upgrades and system maintenance; and (5) necessary improvements to customer-service policies and procedures.

2. 30 V.S.A. § 30 (a)(2) requires the payment of a civil penalty for a violation of Chapter 5, Title 30, which includes § 225 and § 229. Furthermore, 30 V.S.A. § 230 provides for the payment of a civil penalty for a violation of § 229.

3. These concerns were raised by the Department in the course of Docket 7480, in which the Board approved the proposed acquisition of Readsboro Electric by Central Vermont Public Service Corporation.

4. This issue was originally raised by Mr. Larry Hopkins in a letter to Susan Hudson, Clerk of the Board, dated November 12, 2008.

5. Readsboro Electric filed the 2007 audited financial statements on December 7, 2009. On April 13, 2010, Readsboro Electric indicated that the 2008 audit will be submitted to the Board and the Department when it is finalized.

On September 28, 2009, the Board opened Docket 7564 to investigate Readsboro Electric's tariff filing and appointed me to serve as the Hearing Officer in that proceeding as well.

On October 6, 2009, I held a combined prehearing conference in Dockets 7532 and 7564. At the prehearing conference, I agreed to consolidate the dockets for the purpose of hearings.

On October 16, 2009, Readsboro Electric advised the Board that it had waived the seven-month deadline for a final order pursuant to 30 V.S.A. § 227.⁶

On November 2, 2009, Readsboro Electric filed direct testimony in these proceedings.

On November 18, 2009, I conducted a public hearing in Readsboro, Vermont. Approximately 30 members of the public attended the hearing. Three individuals spoke at the hearing and raised concerns about Readsboro Electric's business practices. The Board also received several written comments regarding these concerns and the impact of the rate increase on customers.

On March 15, 2010, the Department and Readsboro Electric filed a Stipulation that settles all outstanding issues in these dockets.⁷ In an April 5, 2010, memorandum from the Clerk of the Board, the parties were asked to respond to a number of questions concerning the Stipulation. On April 13, 2010, the parties filed responses to the questions raised in the Clerk's April 5 memorandum. In the April 5 memorandum, the parties were also informed that I intended to admit the testimony and exhibits filed by Readsboro Electric, the Stipulation and its attachments, and the responses to the questions raised in that memorandum into the record. No party objected to the admission of these documents.⁸ Additionally, no party has requested a hearing on the Stipulation, and I conclude that no hearing is needed.

Pursuant to 30 V.S.A. § 8, and based on the record and evidence before me, I hereby report the following findings and conclusions to the Board.

6. Letter from Elijah Emerson, Esq., for Readsboro Electric, to Susan Hudson, Clerk of the Board, dated October 16, 2009.

7. Since the Stipulation addresses the issues in both dockets, these dockets have been consolidated.

8. I hereby admit the following documents in the record as evidence in this proceeding: Prefiled Testimony of Craig Bartosewcz, Exh. Readsboro-Bartosewcz 1 through 4; Prefiled Testimony of Steve Farman, Exh. Readsboro-Farman-1 through 6; and Prefiled Testimony of Patricia Richards. I also admit the response dated April 13, 2010, to the April 5 Memorandum as Exh. Joint-2.

III. FINDINGS

1. An increase in Readsboro Electric's annual revenues from retail customers of 30.76% (or \$92,262), effective with service rendered after appropriate notice to customers as discussed in Finding 4 below, will result in just and reasonable rates. Exh. Joint-1 at 2.

2. Readsboro Electric's annual cost of service is \$392,242. Exh. Joint-1, Attachment 2.

3. The 24.46% rate increase originally proposed by Readsboro Electric results in just and reasonable rates for the period starting October 1, 2009, until the Board approves the Stipulation, if it so chooses, thereby implementing the 30.76% rate increase going forward on a service-rendered basis. Exh. Joint-2 at 1.

4. Readsboro Electric will notify its customers of the incremental rate increase in a bill insert at least thirty days prior to the implementation of the incremental rate increase on a service-rendered basis. Exh. Joint-2 at 1.

5. Readsboro Electric will work with the Department to develop language for the bill insert to explain why the final rate increase is higher than initially proposed by the utility. Exh. Joint-2 at 1.

6. The Stipulation provides that Readsboro Electric will hire an assistant manager to ensure proper billing and customer-service practices and to oversee line and system maintenance. Exh. Joint-1 at 2.

7. The assistant manager will act as a liaison between Readsboro Electric and its customers, the Readsboro Selectboard, the Department, and the Board. This individual will work in the physical location of the Readsboro Electric office. Exh. Joint-2 at 2.

8. The Stipulation provides that Readsboro Electric shall complete system upgrades that will include, though not necessarily be limited to, the following: replacing approximately 30 outdated poles on the two main single-phase taps serving the hillside area and the line running north out of the Village along Route 100; completing a fuse coordination study and implementing all fuse installations recommended by that study; reconductoring the approximately 15 spans of wire along Main Street consisting of old copper conductor with numerous splices; and completing the phase balancing and installation of the 50 kVAR capacitor bank per the Electrical System Study performed by Green Mountain Power Corporation. Exh.

Joint-1 at 2; exh. Joint-2, Attachment titled Village of Readsboro Electrical System Study by Green Mountain Power Corporation.

9. The proposed 30.76% rate increase should result in sufficient funds to substantially complete the system improvements; however, Readsboro Electric will seek financing, if necessary, to complete such improvements. Exh. Joint-2 at 2.

10. The Stipulation provides that Readsboro Electric will bring its accounting practices into compliance with Generally Accepted Accounting Principles. Exh. Joint-1 at 2.

11. The Stipulation provides that Readsboro Electric will pay an increased proportion of the overall Town of Readsboro municipal expenses to accurately share in those expenses. Exh. Joint-1 at 2.

12. Readsboro Electric will review the allocation of expenses yearly to ensure that the costs continue to be appropriately shared between Readsboro Electric and the Town of Readsboro. Exh. Joint-2 at 3.

13. Four problems associated with Readsboro Electric's billing practices were identified: (1) a partial refund to Readsboro Electric customers in 2008; (2) a billing undercharge that occurred in 2008, (3) a billing error that occurred in relation to the Town of Readsboro Sewer Department ("Sewer Department"); and (4) an overcharge on the first 100 kWh of electricity for residential customers. Bartosewicz pf. at 3 and 8.

14. The first billing problem occurred due to an error that Readsboro Electric made in calculating bill credits required by the Board in Docket 7322. Readsboro Electric took the necessary steps to remedy the error when it was discovered. Bartosewicz pf. at 4-5.

15. The billing undercharge occurred due to a calculation error on the final tariff sheets in Docket 7322. Although the corrected tariff sheets were filed with the Board in July 2008, Readsboro Electric did not correct the error in its billing system until January 2009. The cumulative impact of this error resulted in an under-collection of \$1,741.70. Bartosewicz pf. at 4-5; exh. Joint-2 at 3.

16. The billing error associated with the Sewer Department account occurred from September 2002 until July 2009. An incorrect billing calculation, due to human error, for one of the Sewer Department's six electric demand meters resulted in an overcharge. The Sewer

Department should have been billed \$3,437.75 for demand charges on this meter. During that period, the Sewer Department was actually charged \$38,424.73, resulting in a difference of \$34,986.98. Bartosewcz pf. at 6-7.

17. Due to the error associated with the calculation of the bill credit required by the Board in Docket 7322, the Sewer Department was overcharged an additional \$844.86. The total resulting overcharge for the Sewer Department's electric service is \$35,831.84. Bartosewcz pf. at 7.

18. The Stipulation provides that Readsboro Electric will issue a monthly \$746.50 credit to the Town of Readsboro Sewer Department until the total overcharge is repaid. Exh. Joint-1 at 3; exh. Joint-1, Attachment 1.

19. An error in the rate being charged for the first 100 kWh of electricity on Readsboro Electric's residential customer bills was also discovered. The \$0.046640 rate was corrected to \$0.046440 in the July 2008 bills. This error has existed since January 2007; however, Readsboro Electric could not determine when this error began because it does not have billing records prior to January 2007. Bartosewcz pf. at 8.

20. The Stipulation provides that Readsboro Electric will pay a fine of \$2,000 to the Board for billing its customers in a manner that was not consistent with its tariff and Board Orders. Exh. Joint-1 at 3.

21. Readsboro Electric will not recover through rates the cost to pay the \$2,000 penalty. Exh. Joint-2 at 2.

IV. DISCUSSION AND CONCLUSION

After reviewing Readsboro Electric's original tariff filing, the evidence in this proceeding, and the Stipulation, I am persuaded that approval of the Stipulation is in the public interest, and I recommend that the Board approve it. I conclude that the settlement embodied in the Stipulation will result in just and reasonable rates. Furthermore, I am persuaded that the concerns raised in this proceeding by the Department and by public comments will be addressed through the requirements imposed on Readsboro Electric under the terms of the Stipulation.

Under the Stipulation, the parties agree that Readsboro Electric should pay a \$2,000 penalty for billing customers in a manner that was not consistent with its approved tariffs and with Board Orders. This conduct is a violation of 30 V.S.A. § 229, which prohibits public service companies from deviating, directly or indirectly, from the rates for any service rendered by it "as specified in its schedules of charges in effect at the time such service was rendered." Under 30 V.S.A. § 30(a)(2), the payment of a civil penalty is required for such a violation.

I recognize, as the parties acknowledge in the Stipulation, "that issuing fines and financial penalties against companies that provide electric service at cost is problematic because they do not earn a return on investment."⁹ However, the parties also acknowledge that the "nature and number of errors committed by Readsboro Electric" justify the issuance of a penalty. I concur; and, therefore, recommend that the Board impose a \$2,000 penalty on Readsboro Electric.

Because this Proposal for Decision recommends approval of the Stipulation in its entirety, it is not adverse to any party, and therefore, has not been circulated among the parties, pursuant to 3 V.S.A. § 811.

Dated at Montpelier, Vermont, this 26th day of May, 2010.

s/ Andrea C. McHugh
Andrea C. McHugh
Hearing Officer

9. Exh. Joint-1 at 3.

V. ORDER

IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Service Board of the State of Vermont that:

1. The Findings and recommendations of the Hearing Officer are adopted.
2. The Stipulation between the Vermont Department of Public Service and the Town of Readsboro Electric Light Department filed on March 15, 2010, is approved.
3. The Town of Readsboro Electric Light Department is entitled to rates that will produce annual revenues of \$373,360 (a 24.46% increase), effective for service rendered on or after October 1, 2009, until the rate increase in Paragraph 4, below, takes effect.
4. The Town of Readsboro Electric Light Department is entitled to rates that will produce annual revenues of \$392,242 (a 30.76% increase). The incremental rates shall be effective on a service-rendered basis no sooner than 30 days after customers are notified of the incremental rate increase. Customers shall be notified of the incremental rate increase within 45 days of the issuance of this Order.
5. The Town of Readsboro Electric Light Department shall file compliance tariffs within two weeks of the issuance of this Order.
6. The Town of Readsboro Electric Light Department shall pay a civil penalty of \$2,000 to the Public Service Board within 60 days of the issuance of this Order.

Dated at Montpelier, Vermont, this 4th day of June, 2010.

<u>s/ James Volz</u>)	
)	PUBLIC SERVICE
)	
<u>s/ David C. Coen</u>)	BOARD
)	
)	OF VERMONT
<u>s/ John D. Burke</u>)	

OFFICE OF THE CLERK

FILED: June 4, 2010

ATTEST: s/ Susan M. Hudson
Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)

Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.